



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Fisheries Constituent:

The National Marine Fisheries Service (NOAA Fisheries) encourages industry-based experimental projects that are designed to improve fishery management by, for example, providing additional stock information or developing more selective fishing gear. Many of these projects use privately-owned fishing vessels to conduct activities that are prohibited by federal fishing regulations. Any individual or group that is interested in conducting such a project has to obtain an exempted fishing permit (EFP) from the Northeastern Regional Administrator of NOAA Fisheries. This letter is intended to answer your questions about getting an EFP so that, should you decide to apply for one, the process will run as smoothly and as quickly as possible.

An EFP is required if the proposed activity meets the following criteria:

- 1) *The activity meets the definition of fishing under the Magnuson-Stevens Act* (e.g., the activity will reasonably be expected to result in the catching, taking, or harvesting of fish).
- 2) *The activity will require an exemption from current fishing regulations.* For example, if you have an open access multispecies permit and you want to fish for sand lance in the Gulf of Maine with a handline, you do **NOT** need an EFP. However, you would need an EFP if you wanted to catch the sand lance in a gear-restricted area with trawl gear that uses a mesh size smaller than the minimum mesh size required by that area.
- 3) *The activity does not meet the definition of scientific research.* Scientific research does not require an exempted fishing permit, but rather a Letter of Acknowledgement, from the Regional Administrator. Examples of scientific research include sampling, observing, or surveying a fishery resource to increase scientific knowledge of the resource or testing a hypothesis as part of a planned, directed investigation conducted according to accepted scientific methodologies on board a scientific research vessel. Scientific research does **NOT** include the collection and retention of fish outside the scope of the research plan, or the testing of fishing gear. **[The full definitions of scientific research and a scientific research vessel are provided by clicking here.](#)**

Examples of activities that frequently require an EFP include the testing of fishing gear, market research, and the public display of a fishery resource. An EFP may also be required for projects related to health and safety, environmental cleanup, and/or hazard removal, if the project involves targeting or incidentally harvesting species managed under a fishery management plan or fishery regulations, or if an exemption to a prohibited activity is required.

The Regional Administrator may exempt any person or vessel from the general provisions and specific management measures pertaining to the fisheries of the Northeastern United



States (50 CFR 648 (A-N)) in order to conduct experimental fishing beneficial to the management of the resources or fishery managed in the area of authority of the New England and Mid-Atlantic Fishery Management Councils. Regulations requiring this review and approval of EFPs became effective on June 27, 1996 (50 CFR 600.745 (b), (c) and 648.12).

To apply for an EFP, applicants must submit an application, including applicable NEPA documents (if necessary), at least 60 days before the desired effective date of the EFP. Submission of a complete EFP application less than 60 days before the desired effective date of the EFP may result in a delayed effective date.

An application for an EFP must contain all of the following information:

- 1) The date the application is submitted.
- 2) The applicant's and/or project coordinator's name, mailing address, telephone number, e-mail, and fax number, if available.
- 3) A statement of the purposes and goals of the experimental fishery for which an EFP is needed.
- 4) A list of the specific regulations from which an exemption is being requested and why the exemption is required for the experiment to succeed. Examples of regulations from which exemptions are sometimes sought include: days-at-sea requirements, mesh size, fishing seasons, and closed areas.
- 5) The following catch information:
 - a) The species (target and incidental) expected to be harvested and/or discarded under the EFP. Clearly differentiate target species from incidental species.
 - b) The weight, by species, of such harvest and/or discard anticipated to occur during the experimental fishing, regardless of whether or not it is retained for sale.
 - c) The expected disposition of all regulated species harvested under the EFP (e.g., what you plan on doing with the fish once it is caught).
 - d) Any anticipated impacts on marine mammals or endangered species.
- 6) The following anticipated effort information for each vessel:
 - a) For fixed gear:
 - i) Type and size of gear to be used.
 - ii) Amount of gear to be used (e.g., number of pots, number of gillnets, etc.).
 - iii) Number of gear hauls.

- iv) Average soak time.
- b) For mobile gear:
 - i) Type and size of gear to be used.
 - ii) Number of tows to be made per day.
 - iii) Duration and speed of each tow.
 - iv) Number of days during which the experiment will be conducted.
- 7) The following information for each vessel covered by the EFP (as soon as the information is available - and before operations begin under the EFP):
 - a) If Federally permitted: The name and U.S. Coast Guard documentation or state registration number of the vessel, and the permit number.
 - b) If not Federally permitted: 1) a copy of the U.S. Coast Guard documentation, state license, or registration of each vessel, or the information contained on the appropriate document. 2) the current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.
 - c) The approximate date(s) of the fishing activity.
 - d) The approximate location(s), in latitude/longitude coordinate format, where the fishing will take place.
- 8) The signature of the applicant.

The Regional Administrator may request additional information from the applicant to approve an EFP. An incomplete application will not be considered until all requested information is received by NOAA Fisheries.

After doing a preliminary evaluation of the application, NOAA Fisheries will inform the applicant whether their project warrants further consideration. If it does, a notice will be published in the Federal Register and the public will have 15 to 45 days to comment on the proposal.

Persons fishing under an EFP are **required** to report their catches to the Regional Administrator as specified in the EFP. Failure of a permittee to comply with the terms and conditions of an EFP may be grounds for sanctions against all persons and vessels conducting activities under the EFP.

Please send applications to: Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. If you have any questions regarding exempted fishing activities or the permitting requirements associated with them, please call the Sustainable Fisheries Division at 978-281-9315.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is fluid and cursive, with the first name "Patricia" written in a more stylized, connected manner.

Patricia A. Kurkul
Regional Administrator

PRIVACY ACT STATEMENT: Under the provisions of the Privacy Act of 1974 (Public Law 93-579), no agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

BURDEN STATEMENT: The information requested for exempted fishing permits is approved under OMB Control #0648-0309, and is approved for use through 08/31/05. Public reporting burden for this collection of information is estimated: (1) To average 1 hour per response to complete an application for an exempted fishing permit; and (2) to average 1 hour per response to collect information and provide a report at the conclusion of exempted fishing activity. Send comments regarding this burden estimate or suggestions for reducing the burden to: Virginia Fay, Acting Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number.